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God, Gender, and the American Disaster

Ben Shapiro once said that “Facts don’t care about your feelings.” He is correct; indeed, they do not. However, this notorious slogan among the right wing American political party has been used to argue against the existence of transgender people for quite a while. Additionally, this phrase has been used as a sort of “gotcha” in arguments that minimize the importance of their gender-affirming care (which includes various medical and social procedures that a person may choose to undergo in order to appear as their desired gender) (“Suggested Discussion Points”). However, these beliefs are often not rooted in science, rather, in religion; they should not be allowed to become law. This is because attempted bans on gender-affirming care are rooted in Christian belief, which violates the Establishment Clause. The Establishment Clause is a portion of the First Amendment which, to summarize, states that the government must not favor any particular religious faith with its legislation (Zylstra 111–29). Furthermore, not receiving this gender-affirming care is a surefire way to cause significant psychological distress to those who need it– which leaves restrictions on gender-affirming care unprotected under the Free Exercise Clause. This clause allows people to practice religion as they please, but only so long as it does not affect public health and safety (Zylstra 111–29). Although, at least from personal experience, critics tend to believe the opposite due to their Christian ideals, restricting gender-affirming care (such as hormone replacement therapy and surgeries to alter/add/remove

secondary sex characteristics) violates the Constitution's Freedom of Religion, and should not be done under Constitutional law.

Where is this claim of oppression and medical abuse coming from, though? What even is a transgender person? Well, according to Tammy Gagne in "Understanding Gender Dysphoria," gender dysphoria is a phenomenon that occurs when one's inward gender identity causes distress. Now, from both personal experiences and the stories of others, this can happen to anyone– including people whose sex aligns with their identity– in cases where they do not feel like they are "masculine" or "feminine" enough, despite presenting that way. However, though these manifestations of dysphoria are prevalent and deserving of resolution, more commonly talked about (and generally more difficult to resolve) are the cases of gender dysphoria where sex and gender do not align. The people who experience this consider themselves to be transgender, using the prefix "trans-," which means "change." These people have constitutional rights, just like everyone else.

Part of the Constitution, the First Amendment in particular, calls for the freedom to exercise religion and for the government not to establish any one official religion, among other things (Zylstra 111–29). Now, the Establishment Clause can admittedly be tricky. Its wording is vague. However, the U.S. court system has come up with a way to test the constitutionality of any law under the Establishment Clause: The Lemon Test (Ravishankar). This test has three aspects, or prongs; (1) the law being examined with this test must have a secular/non-religious purpose; (2) the law must have a predominantly secular effect; and (3) it must not foster 'excessive entanglement' between government and religion (Ravishankar). The argument can be made that that bans and restrictions on gender-affirming care do not pass the first prong: having a secular purpose. While researching this topic, significant time was put towards finding some

argument– any argument– in favor of banning gender-affirming care that did not directly cite the Bible. However, even while actively searching phrases like "arguments against gender-affirming care" and “reasons to ban gender-affirming care” (on a public laptop, which provides an unbiased algorithm unlike a personal device), very little existed. The only article without a direct reference to Christianity that the search engine provided was a testimony from Dr. Jennifer Bauwens, stating that “Gender-affirming care creates an illusion that there is only one choice for children and their families to experience relief from their distress, and that is to become someone else.” Yet, the implication that gender-affirming care is “becoming someone else” is simply incorrect– as, despite the under-researching of transgender people, a study has managed to prove that transgender women (male-to-female individuals) do not have the same brain activation patterns as men (Bauwens; Junger et al.). As well as that, the sentiment is irrefutably rooted in Christian belief. Upon looking at Dr. Bauwens’ professional web page, the very first thing (at the top, before any science-related blurbs) is a prompt to join a mailing list for “issues affecting your faith” (“Senior Research Fellow”). Her religion is unmistakably intertwined with her practice, and while that is not inherently bad, her faith-biased arguments against gender-affirming care, when combined with a lack of other people arguing similar points without even trying to hide their religiously influenced beliefs, prove that there is no secular purpose for its restriction.

As mentioned previously within this paper, the Free Exercise Clause does not protect practices which affect public health and safety (Zylstra 111–29). This means that causing harm to others based on religious faith is prohibited, and restricting gender-affirming care is most certainly harmful, especially psychologically. As the American Psychiatric Association states, “Access to gender-affirming care has a positive relationship with the mental health of transgender youth and lowers their risk of depression and suicide,” (“Suggested Discussion

Points"). The quote speaks for itself; there is a strong inverse correlation between level of access to gender-affirming care and suicide rates. Yet, despite the facts, so much opposition exists, all because certain members of the Christian faith so loudly protest this potentially life-saving care. However, even if we indulge the straw men, even in cases of children who grow up to identify with their sex assigned at birth who receive gender-affirming care that they end up not needing later in life, the American Psychiatric Association states that they are much happier than transgender children in cases where such care is delayed ("Suggested Discussion Points"). If gender-affirming care is restricted, children will die. On top of that, more children (including ones who identify with their sex assigned at birth) will be traumatized by the loss of their friends, their siblings, or their classmates. This is what a large portion of the people who follow any sort of Christian faith, in tandem with the right-wing American political party, are trying to make immutable law. As the old saying goes: "just because one person is on a diet, that doesn't mean that someone else can't eat a donut."

All in all, the evidence is overwhelming. Gender-affirming care, which is a huge benefit to those who willingly receive it, should not be banned or restricted by the government. A ban would serve no secular purpose, and its restriction affects the good conduct of those who put it into place, as well as that of those who perpetuate it sans coercion. It is simply unconstitutional and extremely harmful to children no matter how the argument is framed. Thus, the path going forward is clear; representatives need to be contacted on the federal level to have protections put in place on gender-affirming care, awareness needs to be raised, and the rampant misinformation surrounding both gender-affirming care and transgender people in general needs to be dispelled. After all, transgender people are, first and foremost, people. What they do with their appearance

and what medical intervention they may or may not choose to pursue is their decision, and their decision alone.

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